

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

HCP No. 132/2024
CM No. 2764/2025

Reserved on:- 29.07.2025
Pronounced on :- 22.08.2025

Mohd. Rafi Najar, S/o Ab. Rehman Najar,
R/o Arwani Bijbehara, District Anantnag
Through his mother, Mst. Heemal (aged
about 57 years), R/o Arwani Bijbehara
District Anantnag.

.....Appellants

Through: Mr. M.A Makroo, Advocate

Vs

1. Union Territory of Jammu and Kashmir through Principal Secretary to Govt. Home Department, Civil Secretariat, Srinagar/Jammu.
Secretary to Govt. Home Department, Civil Secretariat, Srinagar/Jammu
2. District Magistrate, Anantnag.
3. Senior Superintendent of Police, Anantnag
4. Superintendent Central Jail Koth Bhalwal, Jammu

..... Respondents

Through: Mr. Illyas Laway, GA

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE
JUDGMENT
22.08.2025

1. The petitioner, through the medium of present petition, has challenged impugned order of detention bearing No. 06/DMA/PSA/DET/2024 dated 01.04.2024 passed by respondent No. 2-District Magistrate, Anantnag whereby the petitioner has been taken into preventive detention with a view to prevent him from acting in any manner prejudicial to the security of the State.
2. The petitioner has challenged the impugned order of detention on the grounds that procedural safeguards as envisaged under Constitution of India/J&K Public Safety Act have not been observed by the respondents while detaining the petitioner. It has been contended that the grounds of

detention are vague and indefinite on the basis of which, the petitioner could not have made an effective representation. It has also been contended that the impugned order of detention is based on the activities of the year, 2013 and there is no proximate link between the alleged activities of the petitioner with the order of detention. It has been further contended that the respondent-Detaining Authority had revoked earlier detention order passed against the petitioner and the said detention order had been passed on similar grounds which have been made the basis of the present detention order. It has been further contended that the impugned detention order has been passed without application of mind.

3. It has been contended that the whole of the material forming basis of the grounds of detention has not been furnished to the petitioner nor has he been informed about his right to make representation against the order of detention. The petitioner has further contended that the representation made by him against the impugned order of detention has not been given a prompt consideration and its result has never been conveyed to him.
4. The respondents have contested the writ petition by filing their reply in the form of counter affidavit of detaining authority-respondent No. 2. In the reply, it has been submitted that the petitioner has been in touch with terrorists and overground workers to carry out their commandments. It has been submitted that the petitioner is indulging in activities prejudicial to security of the State and is provoking the people to wage war against Government of India. It has been submitted that normal law of the land is not capable of deterring the petitioner from indulging nefarious activities.

According to the respondents, the petitioner has been handed over whole of the material on the basis of which, grounds of detention have been formulated and the same have been read over and explained to him. The respondents have specifically submitted that the petitioner has been informed about his right to make representation against the impugned order of detention and that they have adhered to all the procedural requirements while detaining the petitioner. To lend support to their contentions, the respondents have produced the detention record.

5. I have heard learned counsel for the parties and perused the record.
6. The first ground that has been urged by the petitioner for impugning the detention order passed against him is that the detaining authority has not applied its mind while passing the impugned order of detention inasmuch as, the grounds of detention are replica of the police dossier.
7. If we have a look at the grounds of detention and the dossier produced by the police before the detaining authority, a copy whereof has been placed on record by the petitioner along with his re-joinder, it is revealed that there is no similarity either in the language used in the two documents or in any other aspect. The detaining authority has only narrated the factual aspects contained in the dossier while formulating the grounds of detention. The detaining authority has clearly recorded its satisfaction on the basis of police dossier, the FIRs and the documents enclosed with the dossier that it is imperative to pass the detention order against the petitioner so as to prevent him from indulging in similar activities. Thus, it cannot be stated that there has been any non-application of mind on the part of the detaining authority.

8. The next contention that has been raised by learned counsel for the petitioner for challenging the impugned order of detention is that whole of the material forming basis of the grounds of detention has not been furnished to the petitioner.
9. In the above context, a perusal of the detention record would reveal that the petitioner has received 20 leaves comprising detention order (1) leaf, notice of detention (1) leaf, grounds of detention (2) leaves, dossier of detention (3) leaves, copies of FIR, statements of witnesses and other relevant documents and (13) leaves. The receipt bears the signature of the petitioner and it is recorded in the receipt that the material has been read over and explained to the petitioner in Urdu and Kashmiri languages. No other material has been relied upon by detaining authority while formulating the grounds of detention. Therefore, it cannot be stated that whole of the material forming the basis of grounds of detention has not been furnished to the petitioner.
10. Lastly, it has been argued by learned counsel for the petitioner that representation made by the petitioner against the impugned order of detention has not been considered by the respondents. In this regard, if we have a look at the detention record, it is revealed that representation of the petitioner was considered by the Advisory Board on 24.04.2024 and the same was rejected. The petitioner was given personal hearing by the Board and his representation was rejected in his presence. Thus, it cannot be stated that the representation of the petitioner has either not been considered by the respondents or its result has not been conveyed to the petitioner.

11. For the foregoing reasons, I do not find any merit in this petition. The same is dismissed, accordingly.

(SANJAY DHAR)
JUDGE

SRINAGAR
22.08.2025
Tarun/P/S

<i>Whether the order is speaking?</i>	Yes
<i>Whether the order is reportable?</i>	No

